

***NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 30-102-06  
APRIL 30, 1999***

***Administration and Operations  
Regulatory Guidance***

***PROCEDURES FOR ROUTING DOCUMENTS TO NOAA AND DOC***

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Signed \_\_\_\_\_  
[Approving Authority name] Date  
[Approving Authority title]

PROCEDURES  
FOR ROUTING DOCUMENTS TO NOAA AND DEPARTMENT OF COMMERCE

For Guidance of NMFS Headquarters Staff

April 30, 1999

The following overview of the Headquarter's regulatory process will guide individuals in assembling and clearing various packages of memoranda and rules. Reviewers must ensure that original signed decision memoranda, the original signed rule, and other elements related to the specific action are prepared for proper filing for the Administrative Record.

Specific procedures are provided for routing the following actions, once concurrence/approval has been received by the Assistant Administrator for Fisheries, or a designee, see:

- I. Rule under Secretarial Review;
- II. Regulatory amendment;
- III. Magnuson-Stevens Act emergency;
- IV. Annual specifications; and
- V. Documents in accordance with the National Environmental Policy Act.

Office designations:

Secretary-	William Daley
DOC	- Dan Cohen, Chief Counsel for Regulation; Mark Haflich, Betty Olson, Linda Datcher (Regulations secretary).
NOAA-A	- D. James Baker, Under Secretary
NOAA-AS	- Terry D. Garcia, Assistant Secretary
NOAA-ES	- Doris Kohler; Director, Executive Secretariat
NOAA-GC	- Monica Medina; General Counsel
NOAA-GC	- Jay Johnson; Deputy General Counsel
PSP	- Susan B. Fruchter; Director of the Office of Policy and Strategic Planning
OMB-OIRA	- David Rostker, Desk Officer, Office of Information and Regulatory Affairs
AA	- Penelope D. Dalton, Assistant Administrator for Fisheries; or designee
DAA	- Andrew A. Rosenberg, Deputy AA
RA	- Regional Administrator
F/SF	- Office of Sustainable Fisheries

I. FMP Secretarial Review

PROPOSED RULE

A. The transmittal package is sent to DOC (Cohen) by placing in a U.S. Government Messenger Envelope (No. 65-B) in the F/CU blue mail pouch (Station 14411) (or hand delivery can be used, depending on the urgency). The package consists of:

1. Information memo to Cohen signed by AA, and unsigned Cohen to Small Business Administration (SBA) memo for certification of non-significant regulation under the Regulatory Flexibility Act (RFA) (if applicable) (Department of Commerce stationery), with blue transmittal slip (to Cohen from Reviewer);
2. Copy of the Attorney Work Product and attachments, if any;
3. Copy of the RA's decision memo, signed by AA to indicate concurrence;
4. Two copies of the proposed rule; and
5. Copy of transmittal form showing GCF clearance.

If the rule includes an information-collection request, an OMB 83-I is provided with justification and identification of the burden hours. Paulette Robinson, F/SF5, prepares transmittal memo from AA to NOAA and forwards the request and rule as a separate package for Rick Roberts, NOAA PRA Clearance Officer, who transmits to Linda Englemeier, DOC PRA Clearance Officer. When cleared by NOAA and DOC Clearance Officers, DOC transmits to OMB when the proposed rule is published.

B. NOAA-AS is informed when Secretarial review of an FMP/amendment has begun by transmitting the following to NOAA-ES when the Cohen package (see I.A. above) is sent:

A purple folder with an Information Memorandum, signed by the AA, to inform NOAA-AS about the action and identifying CONTROVERSIAL issues, if any; with copies of the RA's decision memo, including attachments, with blue transmittal slip (to Garcia from Reviewer).

The original RA's decision memo is retained by the F/SF3 Reviewer.

C. The following clearances occur at DOC:

1. The rule is logged into DOC by Datcher;
2. DOC provides technical comments to GCF attorney;
3. F/SF3 Reviewer provides revised copies of the rule to DOC (if needed);
4. For regulations that are not significant under E.O. 12866, Cohen contacts OMB-OIRA to obtain clearance (if not cleared by prior submission of a "listing"); and
5. DOC provides Reviewer with DOC docket number, representing NOAA/DOC clearance to publish in the Federal Register.

APPROVED FMP/AMENDMENT WITHOUT A FINAL RULE

A. A purple folder for NOAA-AS is transmitted to NOAA-ES, with blue transmittal slip (to Garcia from Reviewer) as follows:

1. Original signed information memo from AA to NOAA-AS, indicating whether the action is CONTROVERSIAL or NOT CONTROVERSIAL;
2. Copy of the RA's decision memo, signed by AA to indicate concurrence (original RA's memo is retained by F/SF3 Reviewer); and
3. Copy of transmittal form showing GCF clearance.

B. Nothing is sent to DOC.

FINAL RULE

A. A purple folder for NOAA-AS is transmitted to NOAA-ES, with blue transmittal slip (to Garcia from Reviewer) as follows:

1. Original signed decision memo from AA to NOAA-AS, indicating whether the action is CONTROVERSIAL or NOT CONTROVERSIAL;
2. Copy of the RA's decision memo, signed by AA to indicate concurrence (original RA's memo is retained by F/SF3 Reviewer);

3. One copy of the final rule; and

4. Copies of the transmittal form showing GCF clearance.

B. The final rule package is transmitted to DOC (Cohen) by placing the following in a Messenger Envelope in the F/CU mail pouch (or hand delivery can be used, depending on the urgency):

1. The original information memo to Cohen from AA;

2. Copy of RA's decision memo signed by AA to indicate concurrence;

3. Two copies of the final rule;

4. One copy of the Attorney Work Product with attachments, if any; and

5. Copy of the transmittal form showing GCF clearance.

C. The following clearances occur at DOC:

1. The rule is logged into DOC by Datcher;

2. DOC provides technical comments to GCF Reviewer;

3. F/SF3 Reviewer revises and provides revised copies of the rule (if needed) to DOC;

4. Signed memo from NOAA-AS indicating NOAA clearance of final rule is transmitted to DOC (Note: If the transmittal bypasses DOC, F/SF3 Reviewer provides copy for DOC); and

5. DOC provides F/SF3 Reviewer with DOC docket number, representing NOAA/DOC clearance to publish in the Federal Register.

## II. Regulatory Amendment

### PROPOSED RULE

A. Proposed rule package is transmitted to DOC (Cohen) by placing in a Government Messenger Envelope in the F/CU blue mail pouch (or hand delivery can be used, depending on the urgency):

1. Original information memo from AA to Cohen, with blue transmittal slip (to Cohen from Reviewer);

2. Copy of the Attorney Work Product with attachments, if any;

3. Copy of the RA's decision memo, signed by the AA to indicate concurrence;

4. Two copies of the proposed rule;

5. If applicable, unsigned Cohen to SBA memo for certification of non-significant regulation under RFA (Department of Commerce stationery); and

6. Copy of transmittal form showing GCF clearance;

B. An Information Memorandum is transmitted to NOAA-AS to inform him about proposed actions, indicating whether CONTROVERSIAL or NOT CONTROVERSIAL, as follows:

1. Original signed information memo from AA to NOAA-AS, with blue transmittal slip (to Garcia from Reviewer); and

2. Copy of the RA's decision memo, signed by AA to indicate concurrence (original RA's decision memo is retained by the F/SF3 Reviewer).

3. Copy of transmittal form showing GCF clearance; and

4. One copy of the proposed rule.

C. The following clearances of the proposed rule occur at DOC:

1. The rule is logged into DOC by Datcher;

2. DOC provides technical comments to GCF Reviewer;

3. F/SF3 Reviewer provides revised copies of the rule (if needed) to DOC; and

4. DOC provides F/SF3 Reviewer with DOC docket number, representing NOAA/DOC clearance to publish in the Federal Register.

## FINAL RULE

A. The final rule package is transmitted to DOC (Cohen) in a Messenger Envelope in the F/CU blue mail pouch (or hand delivery can be used, depending on the urgency):

1. The original information memo from AA to Cohen, with blue transmittal slip (to Cohen from Reviewer);
2. Two copies of the final rule;
3. Copy of the Attorney Work Product with attachments, if any; and
4. Copy of the transmittal form showing GCF clearance.

B. The purple folder to NOAA-AS contains the following:

1. Original signed decision memo from AA to NOAA-AS, indicate whether CONTROVERSIAL or NOT CONTROVERSIAL, with blue transmittal slip (to Garcia from Reviewer);
2. Copy of RA's decision memo, signed by AA to indicate concurrence (original RA's memo is retained by F/SF3 Reviewer); and
3. One copy of the rule.

C. The following clearances of the final rule occur at DOC:

1. The rule is logged into DOC by Datcher;
2. DOC provides technical comments to GCF Reviewer;
3. F/SF3 Reviewer revises and provides revised copies of the rule (if needed) to DOC;
4. Copy of memo signed by NOAA-AS, indicating NOAA clearance of final rule, is sent to DOC by ES (Note: if memo bypasses DOC, F/SF3 Reviewer provides DOC with a copy); and
5. DOC provides F/SF3 Reviewer with docket number, representing NOAA/DOC clearance to publish in the Federal Register.

III. Magnuson-Stevens Act Emergency (exempt from review procedures of the Regulatory Flexibility Act)

EMERGENCY RULE

A. After concurrence by AA, transmit the emergency rule package in the pouch to NOAA-ES (or may be hand carried, must be logged into the NOAA-ES correspondence system):

1. For a CONTROVERSIAL emergency, with a decision memo to NOAA-A and an information memorandum to the Secretary, with blue transmittal slip (to Garcia from Reviewer):

- a. Original signed decision memo from AA to NOAA-A;
- b. Information memo for Secretary to advise him of the emergency rule;
- c. Copy of the emergency rule; and
- d. Copy of transmittal form showing GCF clearance.

2. For a NON-CONTROVERSIAL emergency, with a decision memo to NOAA-AS, with blue transmission slip (to Garcia from Reviewer):

- a. Original signed decision memo from AA to NOAA-AS;
- b. Copy of the emergency rule; and
- c. Copy of transmittal form showing GCF clearance.

B. The following clearances occur at NOAA:

1. NOAA-AS acknowledges the receipt of a NON-CONTROVERSIAL emergency rule by signing the decision memo, concurrence/non-concurrence, date or NOAA-AS acknowledges the receipt of a CONTROVERSIAL rule by signing the decision memo, concurrence/non-concurrence, date, and signs an information memorandum to the Secretary (a NOAA official may brief the Secretary).

2. ES provides a copy of the NOAA-AS concurrence to DOC.

C. The following package is transmitted to DOC by placing in a Messenger Envelope in the F/CU blue mail pouch (or hand delivery is optional, but do not log into the ES correspondence system), with blue transmittal (to Cohen from Reviewer):

1. Original signed information memo from AA to Cohen;
2. Two copies of the emergency rule;



and 3. Copy of Attorney Work Product with attachments, if any;

4. Copy of the transmittal form showing the GCF clearance.

D. The following clearances occur at DOC:

1. The emergency rule is logged into DOC by Datcher;

2. DOC provides technical comments to GCF Reviewer;

3. F/SF3 Reviewer provides revised copies of the rule (if needed) to DOC;

4. DOC provides an advance copy of the emergency rule to OIRA, if necessary; and

5. DOC provides a docket number to F/SF3 Reviewer **only** when confirmation of clearance by NOAA-AS or clearance by NOAA-A and the briefing of DOC, in the case of a controversial action, is in hand.

#### IV. Annual Specifications

("Framework" specifications that have no regulatory text; if an annual harvest specification is included in **rulemaking**, see II. Regulatory Amendment.)

#### PROPOSED OR INITIAL SPECIFICATION

A. The following documents are transmitted to DOC (Cohen) by placing in a Government Messenger Envelope in the F/CU blue mail pouch (original RA's memo is retained by F/SF3 Reviewer):

1. Original signed information memo from AA to Cohen, with blue transmittal slip (to Cohen from Reviewer);

2. Copy of the RA's decision memo with AA's concurrence;

3. Copy of the Attorney Work Product with attachments, if any;

4. Two copies of the proposed specification; and

5. Copy of transmittal form, showing GCF concurrence.

B. The following clearances occur at DOC:

1. The specification is logged into DOC by Datcher;
2. DOC provides technical comments to GCF Reviewer;
3. F/SF3 Reviewer provides revised copies (if needed) to DOC; and
4. DOC provides DOC docket number to F/SF3 Reviewer representing DOC/NOAA clearance to publish in the Federal Register.

C. The purple folder to NOAA-AS contains the following:

1. Original signed information memo from AA to NOAA-AS;
2. One copy of the RA's memo showing concurrence by AA; and
3. One copy of the specification; and
4. Copy of transmittal form showing GCF clearance.

#### FINAL SPECIFICATION

A. The following is transmitted to DOC (Cohen) by placing in a Government Messenger Envelope in the F/CU blue mail pouch (original RA's memo is retained by F/SF3 Reviewer):

1. Original signed information memo from AA to Cohen;
2. Copy of the RA's decision memo, with concurrence by AA;
3. Copy of the Attorney Work Product with attachments, if any;
4. Two copies of the final specification; and
5. Copy of transmittal form showing GCF concurrence.

B. The following package is transmitted in a purple folder to NOAA-AS:

1. Original signed information memo from AA to NOAA-AS, with surname copies, with blue transmittal slip (to Garcia from Reviewer);
2. Copy of the RA's memo, showing concurrence by AA;

3. One copy of the specification; and
  4. Copy of transmittal form showing GCF clearance.
- C. The following clearances occur at DOC;
1. The specification is logged into DOC by Datcher;
  2. DOC provides technical comments to GCF Reviewer;
  3. F/SF3 Reviewer revises and provides revised copies to DOC (if needed);
  4. Copy of decision memo signed by NOAA-AS, indicating NOAA clearance of final specification, is sent to DOC by ES (Note: if memo bypasses DOC, F/SF3 Reviewer provides DOC with a copy); and
  5. DOC provides F/SF3 Reviewer with DOC docket number, representing NOAA/DOC/OMB clearance to publish in the Federal Register.
- V. National Environmental Policy Act

#### ENVIRONMENTAL ASSESSMENT

A. At the final/emergency rule stage, a manila folder with memo signed by AA, or a designee, to Fruchter, unsigned memo to be signed by Fruchter, and signed environmental assessment (EA) are sent by F/SF3 to Fruchter (PSP) by placing in a Messenger Envelope in the F/CU blue pouch.

(If the EA does not contain a "Finding" statement for the AA to sign a FONSI, one is created by the F/SF3 Reviewer and inserted or added to the EA as an attachment. If the NEPA requirement is met with a categorical exclusion, no EA is necessary.)

B. The EA package consists of:

1. The decision memo to Fruchter, signed by AA, which requests concurrence by Fruchter, with blue transmittal slip (to Fruchter from Reviewer);

2. The original memo "To All Interested Government Agencies and Public Groups" to be signed by Fruchter (Office of the Under Secretary stationery); and

3. The Environmental Assessment, signed by AA.

C. Distribution of the signed EA and signed "To All Interested Government Agencies and Public Groups" is made by the Reviewer to the responsible Region for Council and Region-created regulatory amendments and emergency actions, or Office Director for F/SF1 documents. Distribution to the public is made by a Council for an EA prepared by a Council.

Note: An Environmental Impact Statement and Supplemental Environmental Impact Statement require special procedures that are different than for an EA (see Operational Guidelines (March 1, 1995), NAO 216-6).